THE HON'BLE MRS JUSTICE T.MEENA KUMARI

and

THE HON'BLE MR JUSTICE P.LAKSHMANA REDDY

WRIT PETITION NO : 9881 of 2005

ORDER: (Per the Honourable Smt. Justice T.Meenakumari)

The present writ petition is filed by the petitioner questioning the order, dated 23.03.2005 passed in O.A.No. 168 of 2005 on the file of the Central Administrative Tribunal, Hyderabad.

The petitioner herein has filed O.A.No. 168 of 2005 before the Central Administrative Tribunal, Hyderabad challenging the order File No. 33/8/201-DRT (H)/52, dated 31.01.2005 issued by the Presiding Officer, Debts Recovery Tribunal, Hyderabad whereunder the services of the petitioner were terminated with immediate effect.

The brief facts of the case are that the petitioner was appointed as peon in the office of the respondent under the Central Civil Services (Temporary Service) Rules, 1965 and worked as such from 15.11.2001 till the date of his termination i.e. 31.01.2005.

It was contended by the petitioner before the Tribunal that he was appointed as peon in Debts Recovery Tribunal, Hyderabad on 15.11.2001 and subsequently the applicant was placed on probation which was extended for another two years and subsequently, the applicant filed a certificate of pass in 8th class which is the minimum qualification for the appointment of peon and that merely because the certificate was from an unrecognized school, it cannot be said that it is not a valid certificate.

The Central Administrative Tribunal after hearing both parties dismissed the said O.A. holding that the applicant did not fulfill the basic qualification to hold the post of peon and that the order of

termination dated 31.01.2005 is self explanatory.

Aggrieved by the same, the applicant in the said O.A. has filed this writ petition.

It is contended by the learned counsel for the petitioner that as per the recruitment rules, the qualification required for the post of peon is 8th standard pass. It is also further contended by the learned counsel for the petitioner that the rule did not specify that passing of 8th standard should be only from a recognized school and in the absence of such categorization, the respondent ought not to have terminated the services of the petitioner.

On the other hand, it is contended by the learned counsel for the respondent that the minimum qualification for the post of peon is passing of 8th standard and even though there is no categorization with regard to obtaining of certificate from the recognized school, in all probability the requirement is only from the recognized school. The other ground on which the learned counsel for the respondent tried to support the office order dated 31.01.2005 is furnishing of date of birth of the petitioner as 03.08.1977 instead of 05.03.1977.

We have perused the entire material on record.

We had an occasion to go through the Central Civil Services (Temporary Service) Rules, 1965 and the said rules do not categorise with regard to furnishing of certificate of 8th standard from a recognized school. It is not in dispute that the petitioner has passed 8th standard, which is the basic qualification for appointment of peon.

The learned counsel for the petitioner filed additional affidavit stating that the date of birth of the petitioner according to the bona fide VIII Class pass certificate issued by the Head Master,Sweety Model High School, Uppuguda, Hyderabad is 03.08.1977; whereas according to the VII Class common examination certificate issued by the District Educational Officer, the date of birth of the petitioner is 05.03.1977. So in view of the controversy regarding the date of birth

of the petitioner, the learned counsel for the petitioner claims that the correct date of birth of the petitioner is 05.03.1977 and that the petitioner will not claim any benefits arising out of the certificate dated 19.06.1996 issued by the Head Master, Sweety Model High School, Uppuguda, Hyderabad wherein the date of birth of the petitioner is shown as 03.08.1977. In view of the affidavit filed by the petitioner, we are of the considered view that the date of birth of the petitioner shall be taken as ***05.03.1977*** for all purposes and the petitioner cannot be penalized for the mistake committed by the school authorities.

Under the above circumstances, the writ petition is allowed as prayed for. However, we make it clear that the date of birth of the petitioner shall be treated as **05.03.1977** instead of 03.08.1977 for all the purposes.

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T.MEENA KUMARI, J

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P.LAKSHMANA REDDY, J

Dated:21.09.2005

Ccm

Note: CC within two days.